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OFFICE OF PETITIONS

In re Application of   :
Bergaya et al.   :
Application No. 10/524,358   :   DECISION ON PETITION
Filed: August 8, 2005   :
Attorney Docket No. 05-189   :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 17, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 26, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). In view of the 3-month extension of time filed July 17, 2009 the date of abandonment of this application is July 27, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and fee of $540, (2) the petition fee of $1,620, and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center AU 1793 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions